

UNTO HIS GRACE,

HIS MAJESTY'S
HIGH COMMISSIONER

And the Honourable

ESTATES OF PARLIAMENT

The COLLECTORS of the POLL imposed Anno 1693.

Humbly Sheweth,

THAT for payment of the Arreers due to the Army preceeding the First of February 1691, and out of these for payment of the Arreers due by the Army to the Country, there is a Poll imposed conform to the several Clauses exprest in that Act: Whereby the Commissioners of the several Shires were to sub-divide themselves, and take up the Roll of the Polable persons of each Paroch, and return the same betwixt and the first of October 1694, to the Lords of Thesaury, or Pol-Office, and the Persons lyable conform to these Rolls, were to pay at *Martinmas* in the said Year 1694, under the pain of the Quadruple.

This being a new Imposition, both as to the Subject and way of Uplifting, and diffused over all the Nation, and we being desirous to serve His Majesty therein prevailed at the Roup by offering Forty Four Thousand one Hundred Pound Sterling therefore, and got a Tack thereof; whereby we were to have the Roll of the polable persons betwixt and the first of October, and thereby to lift the Pole it self according to these Rolls at *Martinmas* 1694. under the pain of the Quadruple from each deficient.

When the first of October came few Rolls were returned, whereupon we acquainted the Thesaury therewith, both by Petition and Instrument; and also the Lords of Privy Council issued forth several Proclamations for supplying these defects: But for all this the Rolls were never compleated nor payments timously made, so that the Quadruples fell due.

We were necessitate to send several persons of Quality to represent our case to His Majesty, that the Tack was not fulfilled to us, and the Quadruples incurred, the uplifting whereof would be a great hardship to the People, whereupon his Majesty first sisted Execution for the Tack-duty, and then with content of Parliament turned the Tack of the said Pole into a Collection. By the Act turning the Tack into a Collection, The reasons for so doing exprest in the Act are, *That the levying of Money by Pole being new, and the Countrey and others concerned not observing the Rules and Ordinances contained in the Act of Parliament thereanent, but throw their failzie incurring the Quadruples appointed be the said Act by way of penalty, the foresaid Tacksmen were not able to pay the forsaide Duty, unless they had been allowed to exact the foresaid Quadruples, which had visibly tended to the great oppression and disturbance of the haill Kingdom.* Therefore His Majesty and Estates of Parliament liberate us from the foresaid Tack, and ordained us to Compt as Collectors, and gave a Commission to the Honaurable Persons therein named to take in our Accompt, & determine all differences thereanent; and to ferm the same at 30000 *lib. Sterling* as the *minimum*, and no person being able to offer that Sum, the Lord Balheaven

A

and

and others, for the behoove of the Officers for whom the Pole was imposed, took the same at that rate.

The Commission after much Paines and Travel prepared and presented a Report to the Parliament, in two points, whereof we are principally concerned. The *First* is, whether our Expenses ought to be allowed to us conform to the Accompt we have offered. And *Secondly*, Whether we can be further liable for the Vintuples then for Ommissions and Concealments of our own Intromissions, but not for the Vintuples of the Concealments of our Sub-Collectors, for which they themselves as the Persons guilty, ought only to be liable.

As to the first point we humbly conceive, that our Expenses cannot be refused because our Tack being turned into a Collection, not upon our Accompt alone, but upon the just grounds represented in the Act, and we made Collectors; we ought to be considered as if we had been appointed Collectors from the beginning: in which case it is unquestionable, that where a Tack is lousd and turned to a Collection in the same Tacksmens Hands, we are in the same case as if we had been always Collectors, and never Tacksmen. And so by the foresaid Act 1693, imposing the Poll, the Lords of Their Majesties Privy Council are impowered to allow out of the said Poll Money, such Charges and Expenses as shall be necessary for Execution of that Act. And therefore conform to the said Power, it is humbly expected from the Justice of the Parliament, that our Expenses and Charges will be allowed us.

2^{do}. By the Act appointing us Collectors, the Commissioners therein named are impowered to allow, or not allow our Expenses for in-bringing of the Poll, as they shall see cause: Which clearly imports, that our Expenses was still under Consideration, and the Allowing only delayed till our Diligence and Pains should appear.

3^{tio}. The report bears, that the Commission found, that the expence of uplifting what remained of the Poll would exhaust what could be recovered: And seeing what remained, was farmed at 6000 *lib*: Sterling, we having uplifted 24000 *lib*: Sterling, and the whole being Farmed be the Officers for 30000 *lib*: Sterling: it is evident that we could not uplift 24000 *lib*: , whereof a part from each person in the Nation without vast expences, besides the expences of our application at Court; attending Parliaments, and the Commission these several years, and otherwayes, seing the 6000 *lib*: could not be uplifted for its value; And upon which ground we refused to Farm the Poll at the *minimum*; and so the Officers who had the right thereto, and could be in no hazard, took the same at that rate

4^{to} Though the Officers had the Farm thir many years; Yet after all their diligence they have recovered little, except from such Shires as were totally deficient to us.

We being turned from Tacks-men to Collectors, not from meer Grace and Favour to our selves, but upon plain and necessar grounds of Justice related in the Act, *Viz*, That Levying of Money by Poll was new, and that the Country had failed in observing the Rules prescribed, whereby we are not only blameless, but in effect wronged by our Tacks not being observed and fulfilled to us.

2^{do}. The Act doth further acknowledge, that the Country had incurred the quadruples, and that these quadruples were due to us: And which if we had exacted we could have payed the whole Tack-duty: So that the Act of Parliament having Discharged these quadruples which was the Subject of our Tack, it necessarily follows, that the Tack was turned to a Collection for a most onerous Cause upon our part; and so consequently we fall all our expences and Charges: and if there were place to bring back the Question; we might justly demand Sallaries for our pains.

It is known, that when several Tacks sett by the Thesaurie and Exchequer have been turned to a Collection; and the Tacksmen appointed Collectors, they got not only their Charges but Salaries: And we cannot be jealous, nor apprehend from so just a Parliament, that our Tack being turned into a Collection, not for our sakes, but for the hail^d Countrey, who had incurred the Quadruples which belonged to us, and whereof they are thereby discharged, That we shall pay for the favour done to the Countrey, and in our prejudice, But that the honourable Estates will allow us our Charges, In representing the same to His Majesty, uplifting, and otherways upon that behalf: For if any loss be sustained by the Conversion, the Countrey in general, who were discharged of the Quadruples, which was our Right, and not we, who were deprived of these Quadruples, ought to make up the same. And in general, That Expenses ought to be allowed to us, was found by a Vote of the Commission after full Debate.

THE 2^d. Question which the Report presents to the Parliament is, concerning the Vintuples: As to which we humbly represent, That we can only be lyable to these of our own Concealment, and not for our Sub-collectors, who if personal Transgressors, must sustain the personal Punishment, according to the known principles of Law, That *noxa caput sequitur & pena tenet suos authores*.

The Report bears, That the Officers opposed the Act of Parliament, which bears the former Tack to have been turned to a Collection, upon the Condition, that the Tacksmen and Sub-collectors should be lyable in 20 s. for each shilling concealed, and that the Tacksmen should be lyable for there Sub-collectors.

To which it is answered, That the Act of Parliament is opposed, turning the Tack *ex justitia* into a Collection, and ordaining *The Tacksmen to Compt for their Intromissions with the Pol-money: Sick like as, if they had only been Collectors and instead of the Tack, had got a Commission allenarly for that effect.*

By which it is clear, That they were only to Compt as Collectors for their Intromissions: It is true, There are Conditions annexed, *viz.* That the Tacksmen be lyable for all the Sub-collectors and Mannagers imployed by them. 2^{ly}: That our Books be made Patent, and that we and our Sub-collectors be examined upon Oath as to the Verity thereof, and whether there be any thing omitted.

Which two Conditions relate to our Intromission, and as to any Intromission had by us, or any imployed by us, we willingly subject our selves.

The 3^d. Condition which is altogether mistaken by the Officers is, *That in case it be found there was any thing received from the Countrey not given up in the Books, That the Tacksmen OR their Sub-collectors, be lyable in 20 s. for each Shilling so omitted.*

By which Condition it is plain, That the Parliament understood that as Penal, and the punishment of Fraud in receiving from the Countrey, and not charging themselves therewith; wherefore in the Conditions annexed to our Compting for our Intromissions, the Parliament justly statutes and finds us lyable for our Sub-collectors and Mannagers imployed by us; but when it comes to our Omissions and Faults, than the Parliament applys the Penalties to the Transgressor in disjunctive Words. *Viz, That the Tacksmen OR their Sub-collectors be lyable in 20 s. for each Shilling omitted, which was received from the Countrey, not given up in the Books.* So that where the Tacksmen received one Shilling from any in the Countrey not given up in his Book, he is lyable in 20 s., and where the Sub-collector so received what was not given up in their Books, the Sub-collector, and not the Tacksmen, is lyable.

For if the Parliament had intended us lyable for these Frauds of our Sub-collectors, they would infallibly exprest the same; and if they had offered any such expression, we would rather have adhered to our Tack & Quadruples, then subjected

our selves to the Vintuples for other Mens Transgressions: And seeing it is not so exprest, and that the Commission has moved a Question thereanent to the Parliament, we are confident that the Parliament, with regard to the Circumstances and genuine import of the words, will find each Man lyable for his own Transgression.

For though we were liable for our Collectors when we imploied them; yet these Penalties being imposed by a subsequent Law, can never reach us who had imploied them before that Law.

It is of no import, nor can it be any Defence to the Sub-collectors, That they did not crave the Conversion: Because the Conversion was made upon the account of the Country, that they might be discharged of the Quadruples incurred; and the Penalty was imposed by Statute upon the Transgressors. And the Sub-collectors would understand, that if we were damnified by their Fault, they will be liable in the Reparation. Therefore the Parliament, for preventing the Multiplying of such Processes, did not find us liable for their Faults, but each Man for his own. And in this they have no prejudice. And it is scandalous in any Man that has transgressed, to excuse himself from the Penalty inflicted upon such a Transgression.

The Officers by the Report further urged, That there being Seventeen Thousand Pound applied for payment of the Arreers to the Country, there remains only One Thousand Pound to them of the Fourty Four Thousand pound contained in our Tack: And if we be not liable in the Vintuples, they cannot make up their Tack-duty of Thirty Thousand Pound.

To which it is Answered, That it seems the Officers only look upon that as payment, which they get in their Hand, but not what is given to their Creditors. But they would understand, that the Seventeen Thousand Pound of Arreers payed to the Country, was due by them to the Country, and so is payment to themselves; Whereby they have got Eighteen Thousand Pound, besides what they have and may uplift.

It is an odd Argument, That if we be not liable in the Vintuples, they cannot make up their Tack-duty: Which is as much as, whether right or wrong, we must be liable.

May it therefore please your Grace and the Honourable Estates, in consideration that if our Tack had been observed to us, and the Rolls timeously delivered, and the Quadruples exacted, we might have been well able to have payed up our Tack-duty: And that in regard our Tack was not fulfilled to us; and that the Quadruples incurred, and due to us, was forgiven to the Countrey, and that our Tack was therefore loosed, and we ordained to make Compt of our & our Sub-collectors Intromissions, as if we had got Commission for that effect, when we got the Tack: And that by the 3d. Condition of that Conversion, we or our Sub-collectors are lyable for what is received and not Booked. To allow us our Charge and Expenses, in uplifting Twenty four Thousand pound whereof a part from each Person in the Nation, according as is provided in the Act 1693. imposing the Poll. And to find, That the Vintuples incurred affect the Transgressors, and not us for them, that being an intollerable Hardship, which we cannot undergo, but would rather have kept our Tack with the Quadruples: And however, the pursuing thereof, will be of great diffu'ty and more Expence, than all that will arise therefræ.

And Your Grace and Lordships Petitioners shall ever Pray &c.